

**STATE PERSONNEL BOARD, STATE OF COLORADO**  
Case No. 2004G004

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**ORDER OF THE STATE PERSONNEL BOARD DENYING PETITION FOR HEARING**

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TONY ROSO,

Complainant,

vs.

DEPARTMENT OF TRANSPORTATION,

Respondent.

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The State Personnel Board (the "Board") met in public session on Tuesday, December 16, 2003. During this public session, the Board reviewed the Preliminary Recommendation of the Administrative Law Judge in the above-captioned case. In a petition for hearing, "[t]he complainant has the burden of demonstrating the existence of valid issues which merit a hearing by showing that there is an evidentiary and legal basis that would support a finding that the action was arbitrary, capricious, or contrary to rule or law, and that the relief requested by the complainant is within the Board's statutory authority." Board Rule R-8-49.

A motion was made and seconded to adopt the Preliminary Recommendation of the Administrative Law Judge and deny the petition for hearing. Mr. Zakhem and Ms. Lottner voted in favor of the motion. Ms. Garcia and Ms. Salkind voted in opposition to the motion. Ms. Siderius abstained from voting.

A majority of the Board did not find that there were valid issues which merit a hearing. Therefore, the petition for hearing is denied.

Dated this \_\_\_\_\_ day of  
December, 2003.

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Joyce Lottner  
Board Chair  
State Personnel Board  
1120 Lincoln Street, Suite 1420  
Denver, Colorado 80203

### NOTICE OF APPEAL

Each party has the following rights:

1. To abide by the decision of the State Personnel Board; or
2. To appeal this decision to the Colorado Court of Appeals within 45 days pursuant to Section 24-4-106(11) C.R.S. (2003), as provided in Section 24-50-125.4(3), C.R.S. (2003).

In the event the decision is appealed, the Board requests that a copy of the Notice of Appeal filed with the Court of Appeals also be filed with the State Personnel Board at: 1120 Lincoln Street, Suite 1420, Denver, CO 80203. Such will aide in the timely preparation of the record.

### CERTIFICATE OF MAILING

This is to certify that on the \_\_\_\_\_ day of December, 2003, I placed true copies of the foregoing **ORDER OF THE STATE PERSONNEL BOARD DENYING PETITION FOR HEARING** in the United States mail, postage prepaid, addressed as follows:

Frank & Finger, P.C.  
William S. Finger, Esq.  
Mark W. Gerganoff, Esq.  
29025 D Upper Bear Creek Road  
Post Office Box 1477  
Evergreen, Colorado 80437-1477

And in the interagency mail, addressed as follows:

Jill M.M. Gallet  
First Assistant Attorney General  
Employment Section  
1525 Sherman Street, 5th Floor  
Denver, Colorado 80203

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